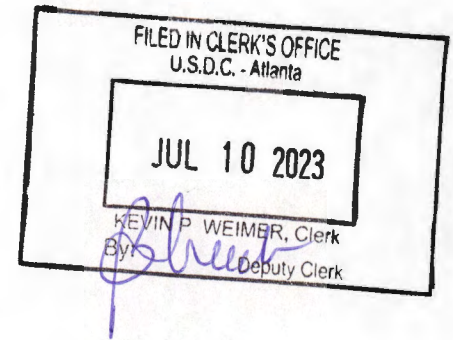


UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA

CASE NO.: 1:19-cv-03297-TWT



Federal Trade Commission,

Plaintiff,

v.

Equifax Inc.,

Defendant.

**VERIFIED MOTION TO EXTEND CLAIM NOTICE DEADLINE  
DUE TO NON-SERVICE AND EXCUSABLE NEGLIGENCE**

Class Member Elroy Phillips (hereinafter "Phillips"), pursuant to applicable rules of the Court files this Motion to Extend Claim Notice Deadline Due to Non-Service and Excusable Neglect and in cause and support will state:

1. This case came to this Court as an MDL proceeding arising out of the Equifax data breach [Doc. #22]. As part of the settlement, Equifax agreed to pay the Consumer Financial Protection Bureau (CFPB) and fifty (50) U.S. states and territories, which alleged that the credit reporting company's failure to take reasonable steps to secure its network led to a data breach in 2017 that affected approximately 147 million people. Class Member Elroy Phillips was one of those people (Ex. "5").

2. A Settlement Administrator was/is tasked with the distribution of the funds to affected persons using the Settlement Administrator's web site.

3. On November 16, 2022, Phillips submitted his extended claim with accompanying documents proving how he had been affected in addition to documentation demonstrating his losses. Phillips was assigned a claim number of PCQNW-LH8TY (Ex. "1").

4. Phillips would periodically check the Settlement Administrator's website to see the status of his claim.

5. On about June 20, 2023, Phillips checked the Settlement Administrator's website to check the status of his claim and was advised that his claim had been denied due to Incomplete Claim (Response Deadline Passed)(See Ex. "2" Copy of July 9,2023 version).

6. On June 21, 2023, Phillips contacted the Claims Administrator via phone and email and advised the Claims Administrator that according to its website my claim had been denied for incompleteness and the deadline had passed. Phillips' further advised that he had not received any Notice indicating that his claim form was incomplete and needed to be corrected (Ex. "3").

7. On June 21, 2023, Phillips received an update to his query regarding his claim and was then told that he was "not" a member of the Settlement Class and was not eligible to Settlement benefits (Ex. "4") contrary to Phillips already being verified as a class member and still being identified as a member of the Settlement Class on the Settlement Administrator's website (Ex. "5").

8. On June 23, 2023, Phillips again called the Settlement Administrator and advised that he never received Notice and that he had checked all his emails and there simply was no Notice sent to him. Phillips further went on to ask the Settlement Administrator when was the supposed Notice sent, and was unable to get an exact date from the Settlement Administrator as to when the supposed Notice was sent, but was told that it was sent in March (Ex. "6").

9. Phillips submits that at no time did he receive a Notice of any sort from the Settlement Administrator or his agents. Phillips checked all past incoming and outgoing emails from and to Equifax, including his "Spam" folder and "junk" folder and there simply was no email sent to Phillips from the Settlement Administrator.

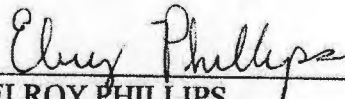
10. Phillips is a verified Settlement Class member by the Settlement Administrator's own files and records (Ex. "5") and Phillips was not given Notice per terms of the Settlement Agreement reached in this case as to his claim being incomplete.

11. Based on the facts of this matter, Phillips claim must be reinstated by this Court because any nonfeasance cannot be attributed to Phillips as he was never served Notice advising him that his claim was incomplete, and Phillips has exercised due diligence in bringing this matter to the Court's attention.

WHEREFORE, Phillips prays that this motion will be granted, and the Court will grant the following relief:

a) Issue an Order reinstating his original claim to the Settlement Administrator; (b) issue an Order upon the Settlement Administrator directing said to provide Phillips with a copy of any and all Notice(s) identifying deficiencies in his claim to the Settlement Administrator and (c); issue an Order granting Phillips 30 days from the granting of this motion to have any deficiencies in his claim to the Settlement Administrator corrected.

Respectfully submitted,

  
ELROY PHILLIPS  
1103 35<sup>TH</sup> STREET  
WEST PALM BEACH FL 33407  
(561)301-8931  
ephillipslaw@gmail.com

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 9<sup>th</sup> day of July 2023.

  
ELROY PHILLIPS



**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy have been furnished by U.S. mail to:  
James Cameron Tribble, Esq., 31 Atlanta Street, Marietta, Ga. 30060, John A. Yanchunis, Esq.,  
201 N. Franklin Street, Tampa, Fl. 33602, Settlement Administrator, JND Legal Administration,  
P.P. Box 91318, Seattle, Wa. 98111-9418 on this 9<sup>th</sup> day of July 2023.

  
ELROY PHILLIPS

**EXHIBIT '1'**

# EQUIFAX DATA BREACH SETTLEMENT

## Check Your Claim Status

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Claim Number: PCQNW-LH8TY

Status Date	Status	Status Description
11/16/2022	Received	Your claim has been received by the Settlement Administrator.

If you have any questions concerning the status of your claim, please refer to the FAQs or contact the Settlement Administrator.

# EQUIFAX DATA BREACH SETTLEMENT

## Your Claim Summary

### Your Information

Initial Claims Period Claim  
Number(s)

First Name ELROY

Last Name PHILLIPS

Middle Initial

Alternative Name

Mailing Address 1103 35TH ST

Apt No

City WEST PALM BEACH,

Country United States of America

State Florida

Zip Code 33407

Phone Number (561) 301-8931

Email Address ephillipslaw@gmail.com

Year of Birth 1966

### Cash Payment: Time Spent

☒ No spent time

### Cash Payment: Money You Lost or Spent

Privacy - Terms



Loss Type	Amount	Description of Loss or Money Spent and Supporting Documents
Costs, expenses, and losses due to identity theft, fraud, or misuse of your personal information incurred between January 23, 2020 and January 22, 2024.	\$21454.00 2022-07-01	LOST \$20,000 ON SALES CONTRACT DUE TO DECLINE IN FICO SCORE BASED ON IDENTITY THEFT, MISUSE OF IDENTITY AND FRAUD. EARNEST MONEY WAS FOREFEITED BECAUSE I COULDN'T SEE REQUISITE FINANCING. ALSO HAD TO PAY \$1,454 IN UNAUTHORIZED CHARGES ON CREDIT CARD. CONTRACT AND DOCUMENTS ATTACHED.

Loss Type	Amount	Description of Loss or Money Spent and Supporting Documents
Professional fees paid to address identity theft incurred between January 23, 2020 and January 22, 2024.	\$6400.00 2022-07-03	HAD TO SEEK PROFESSIONAL CREDIT COUNSELING TO ADDRESS IDENTITY THEFT, MISUSE OF PERSONAL INFORMATION AND TO ASSIST IN PERSONAL INFORMATION BLOCKING AND RETRIEVAL.

## Supporting Documents

DATA BREACH DOCUMENTS.pdf

## How Would You Like to Receive Your Cash Payment

☒ Check

## Your Signature

Your claim will not be received by the Settlement Administrator until you click the "submit" button after your electronic signature. For security reasons, once you hit submit, you will not be able to make any changes to your claim form through this portal. However, you will still be able to go into the portal to upload supporting documentation if you haven't done so. If you later decide you need to change any of the information on your claim form, you will need to reach out to the Settlement Administrator directly.

☒ I affirm under the laws of the United States that the information I have supplied in this claim form and any copies of documents that I am sending to support my claim are true and correct to the best of my knowledge at the

Privacy - Terms



[Submit a Claim](#)

that I have not already received reimbursement for the claimed loss through other means.

☒ I understand that I may be asked to provide more information by the Settlement Administrator before my claim is complete.

Type your name in the box below to electronically sign your claim\*

Date: November 15, 2022

ELROY PHILLIPS

Please wait for your files to get uploaded.

DATA BREACH DOCUMENTS.pdf  
Uploading...

**EXHIBIT '2'**

# EQUIFAX DATA BREACH SETTLEMENT

## Check Your Claim Status

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Claim Number: PCQNW-LH8TY

Status Date	Status	Status Description
5/9/2023	Incomplete Claim (Response Deadline Passed – Claim Denied)	You were issued an Incomplete Claim Notice. Per the terms of the Settlement, you were provided 30 days to respond. The deadline to respond has now passed and you did not respond. Accordingly, your claim has been denied.

If you have any questions concerning the status of your claim, please refer to the FAQs or contact the Settlement Administrator.



**EXHIBIT '3'**

7/9/23, 10:38 PM

Gmail - Ticket#1311185/Denial of my claim -- Has Been Updated



Elroy Phillips <ephillipslaw@gmail.com>

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**Ticket#1311185/Denial of my claim -- Has Been Updated**

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**Elroy Phillips** <ephillipslaw@gmail.com>

Thu, Jun 22, 2023 at 6:46 AM

To: Equifax Breach Settlement Administrator <info@equifaxbreachsettlement.com>

I never received any notice and I am a member of the class. I checked my emails and there is no email from you providing me notice. My claim is valid and since your decision is arbitrary and in violation of the Settlement Agreement I will address this matter to the Court. Please provide me the case number, Clerk of Court address, and your counsel's name and address so i can forward a copy of my filing to said.

Sent by E A Phillips

On Jun 21, 2023, at 11:14 AM, Equifax Breach Settlement Administrator <info@equifaxbreachsettlement.com> wrote:

[Quoted text hidden]

**EXHIBIT '4'**



**From:** Equifax Breach Settlement Administrator  
info@equifaxbreachsettlement.com  
**Subject:** Ticket#1311185/Denial of my claim -- Has Been Updated  
**Date:** Jun 21, 2023 at 11:14:24 AM  
**To:** ephillipslaw@gmail.com

---

**--REPLY above this line to respond--**

**Your ticket 1311185 - Denial of my claim, has been updated.**

**Dear Elroy,**

**You filed a claim in the Equifax Data Breach Settlement on November 15, 2022. We sent you an Incomplete Claim Notice in March that according to Equifax's records, you are not a member of the Settlement Class and are not eligible for Settlement benefits.**

**The Notice was sent to the email address you provided with your claim.**

**If you believe you are a Settlement Class Member, you had to follow the instructions in the Incomplete Claim Notice and provide the information requested by the deadline.**

**The Settlement Agreement establishes that Class Members will have 30 days to cure deficiencies, once notified of that deficiency. We cannot extend this court ordered deadline.**

**Regards,  
Equifax Data Breach Settlement Administrator**

**EXHIBIT '5'**

# EQUIFAX DATA BREACH SETTLEMENT

## Thank You

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Based on the information you provided, our records indicate your personal information was impacted by this incident.

For more information, visit the [FAQ page](#).

### FILE A CLAIM

For Assisted Identity Restoration Services, please call Experian at 1-888-397-0079 and provide engagement number B023677.



**EXHIBIT '6'**

**From: Equifax Breach Settlement Administrator**

**info@equifaxbreachsettlement.com**

**Subject: Ticket#1311185/Denial of my claim -- Has Been Updated**

**Date: Jun 23, 2023 at 11:18:15 AM**

**To: ephillipslaw@gmail.com**

---

**--REPLY above this line to respond--**

**Your ticket 1311185 - Denial of my claim, has been updated.**

**Dear Elroy,**

**The Notice was sent to the email address you provided with your claim. The Settlement Agreement establishes that Class Members will have 30 days to cure deficiencies, once notified of that deficiency. We cannot extend this court ordered deadline.**

**Regards,**

**Equifax Data Breach Settlement Administrator**

7/9/23, 10:37 PM

Gmail - Your Email to the Equifax Breach Administrator - Ticket#1311185



Elroy Phillips <ephillipslaw@gmail.com>

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## Your Email to the Equifax Breach Administrator - Ticket#1311185

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Equifax Information <info@equifaxbreachsettlement.com>  
To: ephillipslaw@gmail.com

Tue, Jun 20, 2023 at 6:35 AM

--REPLY above this line to respond--

Thank you for contacting the Equifax Data Breach Settlement Administrator. Your email has been received and will be answered as quickly as possible.

Your ticket number is 1311185. Please reference this in further communications. In the meantime, please see our Frequently Asked Questions, located at <https://www.equifaxbreachsettlement.com/faq>.

Thank you.

7/9/23, 10:35 PM

Gmail - Denial of my claim



Elroy Phillips <ephillipslaw@gmail.com>

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## Denial of my claim

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Elroy Phillips <ephillipslaw@gmail.com>  
To: info@equifaxbreachsettlement.com

Tue, Jun 20, 2023 at 6:34 AM

I never received any correspondence from but the initial correspondence you sent me acknowledging my claim. As such my claim should not have been denied and I ask that we set this matter for a court hearing.



# EQUIFAX DATA BREACH SETTLEMENT

## Check Your Claim Status

Claim Number: PCQNW-LH8TY

Status Date	Status	Status Description
5/9/2023	Incomplete Claim (Response Deadline Passed – Claim Denied)	You were issued an Incomplete Claim Notice. Per the terms of the Settlement, you were provided 30 days to respond. The deadline to respond has now passed and you did not respond. Accordingly, your claim has been denied.

If you have any questions concerning the status of your claim, please refer to the FAQs or contact the Settlement Administrator.